

Appl. No. 10/061,654
Inventor: Francois et al.

REMARKS

Reconsideration of the above referenced application is hereby requested. Claims 8, 10-17, 19 remain in the application.

In the final Office Action, the Examiner has rejected claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over Kano (U.S. Patent Publication 2002/105837) in view of Bosl (U.S. Patent No. 6,502,710). Applicants' attorney respectfully traverses the Examiner under this ground of rejection.

Applicants' claimed invention is directed towards a closure and fitment combination which prevents accidental unthreading rotation of the closure on a fitment. During handling of the container, it is commonly the case that the container closure and fitment is contacted with sudden strikes from the handling machinery, some of these deflections and contacts causing inadvertent unthreading of the closure from the fitment. As a result, container fluids can leak from the container through the fitment and through the threads of the fitment and closure. One solution in regards to this, as mentioned in the application, is increasing the application torque on the closure, often times resulting in damage to the fitment.

The presently claimed invention is directed towards a plurality of ribs or abutments that are peripherally placed at the joinder of the top wall and side wall which are directed inwardly and which cause the fitment neck to be pinched between the abutments and the seal. This occurs

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as a result of the plurality of vertically extending ribs embeds into the fitment neck after the closure has been threaded fully onto the fitment neck causing the top of the fitment neck to be adjacent to the top wall of the closure. These ribs which are embedded in the fitment neck increase frictional engagement and thereby prevent accidental unthreading of the closure from the fitment neck.

The primary reference relied on by the Examiner is the Kano reference which is directed towards a flexible sealing member 34 in combination with a contact piece 36 and an annular plug seal 38. As is set forth in the description of the Kano reference, the seal is maintained by allowing the annular sealing piece 34 to be deflected radially outward in order to properly seal the mouth and neck portion of the container. As is also readily apparent, the annular contact piece 36 contacts the annular boundary surface 66 of the upper portion of the mouth and neck 56 such that it is deformed and compressed. (See page 4, lines 1-10). As is further described, the annular contact piece 36 is deformed or compressed upon contact such that it is *deflected upward* upon contact with the annular boundary 66 as shown by the chain lines depicted in Figure 5. (See page 5, last paragraph). Thus, the construction of the Kano closure and fitment is such that the contact piece 34, which the Examiner has defined as circumferential sealing rib 34 in the Office Action is a sealing member which is flexible and which is designed to deform and compress appropriately upon the application of the closure in the container. It is also apparent that the contact piece 36 prevents the neck of the container from adequately sealing all the way

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into the closure and that the plug seal 38 does not depend fully downward onto the container. In other words, the design is such to prevent full application of the closure on the container as is clearly shown in the figures, the closure thereby relying on the pliable seal member to prevent leakage. The entire design is an attempt to allow deformation of the closure in doming fashion as is shown in Figure 3 while maintaining this pliable sealing contact along the outer edge of the top wall. More importantly is the fact that the "vertically extending sealing rib 34" cited by the Examiner depends from the top wall and it does not extend inwardly from the side wall thereby increasing the deformation of the seal 34. It is also readily apparent that the closure is designed to deform around the container neck in order to maintain a proper seal between the depending seal member 34 and depending plug seal 38.

The Kano reference does not disclose and in fact teaches directly against the currently claimed combination of a closure and fitment wherein the outer side wall of the closure has circumferentially spaced vertically extending ribs, wherein the ribs contact the fitment neck at the spaced locations and embed into the fitment neck thereby preventing the closure from inadvertently unthreading. In fact, the Kano reference teaches directly against the currently claimed combination and therefore is improperly the basis for the current obviousness rejection. Further, the Bosl reference does not aid in this clear lack of teaching in that the Bosl reference discloses circumferential bulges 6 which are not designed to contact the side wall of the container as is shown in Figure 3, but which are designed to press the sealing disc 5 onto the *opening* of the

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container as is set forth in column 3, lines 1-6. Therefore, the Bosl reference again, as in the Kano reference, teaches directly against the currently claimed combination.

Applicants' attorney feels that the currently claimed combination is not taught nor remotely suggested by the references alone, or in combination, and in fact, the references relied upon by the Examiner teach directly against the claimed combination of a fitment and closure. Applicants' attorney therefore respectfully requests the Examiner allow the pending claims. If the Examiner feels there are additional issues in regards to the pending case which would prevent a mailing of a Notice of Allowance, Applicants' attorney would appreciate a collect call to discuss such issues.



John F. Salazar
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
(502) 584-1135
Reg. No. 39,353